

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**



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In the Matter of the Application of California-American Water Company (U 210 W) for a Certificate of Public Convenience and necessity to Construct and Operate its Coastal Water Project to Resolve the Long-Term Water Supply Deficit in its Monterey District and to Recover All Present and Future Costs In Connection Therewith in Rates.

A.04-09-019  
(Filed September 20, 2004)

**COMMENTS OF THE INDEPENDENT RECLAIMED WATER USERS GROUP  
ON THE PROPOSED DECISION**

Edward W. O'Neill  
Christopher A. Hilén  
DAVIS WRIGHT TREMAINE LLP  
505 Montgomery Street, Suite 800  
San Francisco, California 94111-6533  
Tel. (415) 276-6500  
Fax (415) 276-6599  
Email chrishilen@dwt.com

Attorneys for Independent Reclaimed Water  
Users Group

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ON THE PROPOSED DECISION**

Pursuant to Rule 14.3 of the Rules of Practice and Procedure of the California Public Utilities Commission, the Independent Reclaimed Water Users Group (“IRWUG”)<sup>1</sup> hereby comments on the Proposed Decision (“PD”) of Administrative Law Judge (“ALJ”) Patrick on the motion for Interim Rate Relief of the California-American Water Company (“Cal-Am”) in Phase I of this proceeding.

IRWUG limits its comments to expressing its support for the portion of the PD that authorizes the creation of a new tariff that exempts the Del Monte Forest golf courses from surcharges for the Coastal Water Project (“CWP Surcharges”).<sup>2</sup> IRWUG does propose two revisions to the PD in order to more clearly explain and effectively implement that exemption.

**1. The Proposed Decision Approves a Limited Exemption from the CWP Surcharges.**

The PD authorizes Cal-Am to implement its proposed Special Request 1 Surcharge to pay the pre-construction development costs for the Coastal Water Project.<sup>3</sup> As approved by the

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<sup>1</sup> IRWUG is an unincorporated association of the Monterey Peninsula Country Club (“Monterey Peninsula”), the Cypress Hills Country Club (“Cypress Hills”), and the NCGA Poppy Hills Golf Course (“Poppy Hills”).

<sup>2</sup> PD at 27-29, and Ordering Paragraphs 12-14.

<sup>3</sup> PD at Ordering Paragraph 1.

PD, this surcharge will be 4% on January 1, 2007, increasing to 7% on July 1, 2007 and 10% on January 1, 2008.<sup>4</sup> The PD also authorizes Cal-Am to implement its proposed Special Request 2 Surcharge after the Commission issues a CPCN for the Coastal Water Project or alternative long-term supply solution.<sup>5</sup>

The PD finds that the Del Monte Forest golf courses should be exempted from the CWP Surcharges for their golf course irrigation needs because doing so “will advance the important public policy of encouraging large water users to replace their use of potable water with reclaimed water and further reduce draws of scarce potable water and the accompanying negative environmental impacts.”<sup>6</sup>

The PD also finds that the requested exemption will prevent an inequitable result, because the Del Monte Forest golf courses have already made a substantial contribution to enabling Cal-Am to meet the pumping restrictions imposed by SWRCB Order 95-10 and avoid penalties Cal-Am would have incurred had it exceeded the restrictions of Order 95-10.<sup>7</sup> They have done so through their sponsorship of the Monterey Reclamation Project, from which they purchase reclaimed water and have replaced 80% of the potable water once used for their irrigation needs,<sup>8</sup> and through the construction of the Water Reclamation Expansion Project. When the Expansion Project goes into service in September, 2007, it will enable the Del Monte Forest golf courses to eliminate their use of potable water for irrigation.<sup>9</sup> In addition, the PD

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<sup>4</sup> PD at Ordering Paragraph 1.

<sup>5</sup> PD at Ordering Paragraph 2.

<sup>6</sup> PD at 28 and 34, Conclusion of Law 15.

<sup>7</sup> PD at 30-31, Finding of Fact 3.

<sup>8</sup> Record Transcript (“RT”) at 467-468, IRWUG/Bowhay. In fact, from October, 2005 through July, 2006, the Del Monte Forest golf courses used practically no Cal-Am water for irrigation. RT at 466, IRWUG/Bowhay.

<sup>9</sup> RT at 463, IRWUG/Bowhay.

finds that the exemption will not shift costs to other ratepayers.<sup>10</sup>

The PD provides that the exemption from CWP Surcharges shall be limited to the irrigation needs of the Del Monte Forest golf courses, and that the potable water the golf courses purchase from Cal-Am for their domestic needs shall be subject to the CWP Surcharges.<sup>11</sup> Finally, the PD provides that the exemption shall become effective after the Reclamation Expansion Project is placed in service.<sup>12</sup>

The PD directs Cal-Am to submit a new tariff reflecting the CWP Surcharges exemption for Commission review and approval.<sup>13</sup> It also directs Cal-Am and IRWUG in their comments on the PD to address the applicability of the surcharges to the Del Monte Forest golf courses in the event they use Cal-Am potable water for irrigation after the Water Reclamation Expansion Project is placed in service.<sup>14</sup>

## **2. IRWUG Recommends Two Modifications To The Proposed Decision.**

With its comments, Cal-Am is submitting a new tariff implementing the CWP Surcharges exemption for the Commission's review and approval in compliance with the PD. The new tariff will apply solely to the Del Monte Forest golf courses, in recognition of the fact that they have replaced their use of potable water for irrigation with reclaimed water from the Monterey Reclamation Project. It will exempt the Del Monte Forest golf courses from CWP Surcharges only for water used for irrigation. Potable water the golf courses use for domestic purposes (i.e., clubhouse, food, laundry) will not be exempt from the CWP Surcharges. As submitted by Cal-Am, the new tariff will take effect when the Water Reclamation Expansion Project goes into

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<sup>10</sup> PD at 33, Conclusion of Law 14.

<sup>11</sup> PD at 28-29 and Ordering Paragraph 14.

<sup>12</sup> PD at Conclusion of Law 16 and Ordering Paragraph 12.

<sup>13</sup> PD at Ordering Paragraph 12.

<sup>14</sup> PD at 29.

service.

The new tariff also addresses the applicability of CWP Surcharges to the Del Monte Forest golf courses should they use potable water for irrigation after the Water Reclamation Expansion project is placed in service. The CWP Surcharges will not apply to the golf courses. Instead, the golf courses will pay a 15% penalty for any Cal-Am potable water they use for irrigation in excess of 15 acre feet (“AF”) per water year.<sup>15</sup>

Under the new tariff, the 15% penalty exceeds the highest level of the Special Request 1 Surcharge. Should the golf courses have to rely on Cal-Am potable water for irrigation, the penalty ensures that the exemption from CWP Surcharges will not shift costs to other Cal-Am ratepayers. The Commission can evaluate the operation of the new tariff and the penalty level in Cal-Am’s next Monterey District general rate case (which Cal-Am will file in January, 2008) to determine whether any of its terms should be modified.

IRWUG believes the PD provides a well-reasoned, legally supportable solution to a difficult problem and does so in a manner that furthers the important Commission policy of encouraging large water users to replace their use of scarce potable water with reclaimed water.

The record in this proceeding shows that the limited exemption from CWP Surcharges authorized by the PD meets all the criteria the Commission has used in determining that such an exemption is justified, namely, the surcharge at issue would be unjust and unreasonable if imposed on particular ratepayers, granting the exemption will advance public policy objectives, and the utility’s other ratepayers will not be harmed by the limited exemption.<sup>16</sup>

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<sup>15</sup> This represents about 1.5% of the average collective annual irrigation water use of the Reclamation Project Participants.

<sup>16</sup> See, e.g., *Rulemaking Regarding the Implementation of the Suspension of Direct Access*, D.03-04-030 (exempting small renewable customer self-generation from certain energy rate surcharges in recognition of the contributions they make to decreasing load on the state’s electric system and providing renewable energy); *Pacific Gas and Electric Co.*, D.05-07-041 (exempting the Bay Area Rapid Transit

Notwithstanding its support for the PD, IRWUG suggests that it be revised in two respects in order to more clearly explain and more effectively implement the CWP Surcharges exemption adopted by the PD.

First, IRWUG suggests that the PD be revised to clarify that the Del Monte Forest golf courses include not only the three golf courses that make up IRWUG, but also the Pebble Beach Company. All four golf course owners are major participants in the Monterey Reclamation Project as large purchasers of reclaimed water. In addition, the Pebble Beach Company provided a financial guaranty for the revenue bonds the Monterey Peninsula Water Management District (“MPWMD”) issued to finance the construction of the Water Reclamation Project. Those bonds are repaid with revenue from the sale of reclaimed water, most of which is purchased by the four Del Monte Forest golf courses. Finding of Fact 12 should be revised to clarify that the CWP Surcharges exemption authorized by the PD will apply to all four golf course owners.

Second, IRWUG believes the public policies the PD seeks to further will be more effectively advanced if the PD were revised to provide for Cal-Am’s new tariff implementing the exemption to take effect at the same time the Special Request 1 Surcharge takes effect (expected to occur on January 1, 2007), rather than when the Water Reclamation Expansion Project goes into service in September, 2007.

Delaying the implementation of the new tariff until the Water Reclamation Expansion Project goes into service will increase the price of all of the reclaimed water the Del Monte Forest golf courses purchase from the Monterey Reclamation Project by the amount of the

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District and SierraPine, Ltd. from the surcharge approved to repay PG&E’s energy recovery bonds); *California-American Water Co.*, D.04-07-035 (exempting the Del Monte Forest golf courses from Cal-Am conservation rates because (1) the golf courses had already reduced use of potable water through replacement with reclaimed water; (2) aim of new rates was to encourage conservation, which golf courses had already accomplished; (3) the outcome was reasonable; (4) golf courses were unable to reduce potable water further; and (5) significant contribution the golf courses make to Monterey’s economy).

surcharge. At the same time, artificially increasing the price under the reclaimed water contracts between MPWMD and the Del Monte Forest golf courses will not produce additional revenue to Cal-Am for the Coastal Water Project. Imposition of the Special Request 1 CWP Surcharge on the golf courses during the first part of 2007 may produce a small amount of additional revenue for Cal-Am, but only if the golf courses are required to turn to Cal-Am for potable water in addition to their supplies of reclaimed water during that period.

If the new tariff takes effect at the same time the Special Request 1 Surcharge takes effect, the terms of the new tariff, including the 15% penalty provision, will protect Cal-Am and its other ratepayers in the event the golf courses do need to use potable water for irrigation between now and the in-service date of the Water Reclamation Expansion Project.

Implementing the new tariff simultaneously with the Special Request 1 Surcharge will also simplify the billing changes Cal-Am will have to make to implement both the new surcharge and the new tariff. Cal-Am will have to alter its billing protocols and arrangements when the Special Request 1 Surcharge takes effect on January 1, 2007, again on July 1, 2007, when it increases from 4% to 7%, and yet again on January 1, 2008, when it increases to 10%. Implementing the new tariff simultaneously with the Special Request 1 Surcharge provides administrative efficiencies by avoiding the need for Cal-Am to alter its billing procedures a fourth time in 2007 to implement the new tariff.

IRWUG includes proposed modifications to the PD's findings of fact, conclusions of law, and ordering paragraphs that would implement the two revisions it proposes in the Appendix to these comments.



**3. Conclusion.**

For the reasons stated herein, the Independent Reclaimed Water Users Group respectfully requests that the Commission incorporate in the PD the two modifications proposed herein and adopt the PD as modified.

Respectfully submitted,

By: /s/ Christopher A. Hilen

Edward W. O'Neill

Christopher A. Hilen

DAVIS WRIGHT TREMAINE LLP

505 Montgomery Street, Suite 800

San Francisco, California 94111-6533

Tel. (415) 276-6500

Fax (415) 276-6599

Email edwardoneill@dwt.com

Attorneys for Independent Reclaimed Water  
Users Group

Dated: December 4, 2006

**APPENDIX:**  
**Proposed Modifications to Findings of Fact,  
Conclusions of Law, and Ordering Paragraphs**

**Findings of Fact**

12. IRWUG seeks a limited exemption from the surcharges for golf course irrigation water applied by CalAm to Del Monte Forest golf courses, which include the Pebble Beach Company, the Monterey Peninsula Country Club, the Cypress Hills Country Club, and the NCGA Poppy Hills Golf Course.

**Conclusions of Law**

16. CalAm should provide proposed tariff sheets for our review and approval reflecting the exemption from the Special Request 1 Surcharge and Special Request 2 Surcharge for potable water used by Del Monte Forest golf courses for golf course irrigation. The exemption should become effective ~~after the Monterey Reclamation Expansion Project is placed in service~~ at the same time the Special Request 1 Surcharge becomes effective.

**Ordering Paragraphs**

12. With its comments on the proposed decision, CalAm shall provide a proposed new tariff for Commission review, to exempt Del Monte Forest golf courses from the Special Request 1 Surcharge and Special Request 2 Surcharge for water supplied to Del Monte Forest golf courses for irrigation of golf courses. The tariff shall become effective ~~after the Monterey Reclamation Expansion Project is placed in service~~ at the same time the Special Request 1 Surcharge becomes effective, and upon approval of the tariff by the Commission.

13. After the exemption is effective, if Del Monte Forest golf courses do use CalAm water for golf course irrigation, ~~the surcharges shall be applied to~~ they will pay a penalty for such usage that reflects their use of such potable water.

## **CERTIFICATE OF SERVICE**

I, Judy Pau, certify:

I am employed in the City and County of San Francisco, California, am over eighteen years of age and am not a party to the within entitled cause. My business address is 505 Montgomery Street, Suite 800, San Francisco, California 94111-6533.

On December 4, 2006, I caused the following to be served:

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via electronic mail to all parties on the service list A.04-09-019 who have provided the Commission with an electronic mail address and by First class mail on the parties listed as "Appearance" and "State Service" on the attached service list who have not provided an electronic mail address.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on the date above at San Francisco, California.

/s/ Judy Pau

Judy Pau

### **VIA HAND DELIVERY AND EMAIL**

Commissioner Michael Peevey  
California Public Utilities Commission  
505 Van Ness Ave  
San Francisco, CA 94102

Administrative Law Judge Bertram Patrick  
California Public Utilities Commission  
505 Van Ness Ave, Room 5011  
San Francisco, CA 94102

Administrative Law Judge Michelle Cooke  
California Public Utilities Commission  
505 Van Ness Ave, Room 5011  
San Francisco, CA 94102

### **VIA E-MAIL**

TwoKillerBs@aol.com; connere@west.net; afhubb@aol.com; dave@laredolaw.net;  
mjdelpiero@aol.com; mdjoseph@adamsbroadwell.com; mlm@cpuc.ca.gov;  
LDolqueist@steefel.com; O'Neill, Edward; dcarroll@downeybrand.com; jgeever@surfrider.org;  
townsley@amwater.com; llowrey@nheh.com; shardgrave@rbf.com; sflavin@redshift.com;  
sleonard@amwater.com; andy@mpwmd.dst.ca.us; hjallen101@yahoo.com;  
wyrdjon@yahoo.com; tgulesserian@adamsbroadwell.com; ffarina@cox.net;  
EZigas@esassoc.com; lweiss@steefel.com; sleeper@steefel.com; Hilen, Chris;  
jessnagtalon@gmail.com; jody\_london\_consulting@earthlink.net; hcooley@pacinst.org;  
abl@bkslawfirm.com; dstephens@amwater.com; bdp@cpuc.ca.gov; dsb@cpuc.ca.gov;  
flc@cpuc.ca.gov; jzr@cpuc.ca.gov; mlc@cpuc.ca.gov

# CALIFORNIA PUBLIC UTILITIES COMMISSION

## Service Lists

**Proceeding: A0409019 - CALIFORNIA-AMERICAN**  
**Filer: CALIFORNIA-AMERICAN WATER COMPANY**  
**List Name: LIST**  
**Last changed: October 11, 2006**

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### Appearance

TERRY SPRAGG  
TERRY G. SPRAGG & ASSOCIATES  
420 HIGHLAND AVE.  
MANHATTAN BEACH, CA 90266

CONNER EVERTS  
2515 WILSHIRE BLVD.  
SANTA MONICA, CA 90403

DONALD G. HUBBARD  
HUBBARD & HUBBARD LLP  
AGUAJITO BUILDING  
400 CAMINO AGUAJITO  
MONTEREY, CA 93940-3596

DAVID C. LAREDO  
ATTORNEY AT LAW  
DE LAY & LAREDO  
606 FOREST AVENUE  
PACIFIC GROVE, CA 93950

MARC J. DEL PIERO  
ATTORNEY AT LAW  
MARC DEL PIERO  
4062 EL BOSQUE DRIVE  
PEBBLE BEACH, CA 93953-3011

MARC D. JOSEPH  
ATTORNEY AT LAW  
ADAMS, BROADWELL, JOSEPH & CARDOZO  
601 GATEWAY BLVD., STE. 1000  
SOUTH SAN FRANCISCO, CA 94080

MONICA L. MCCRARY  
CALIF PUBLIC UTILITIES COMMISSION  
LEGAL DIVISION  
ROOM 5134  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214

LORI ANNE DOLQUEIST  
ATTORNEY AT LAW  
STEEFEL, LEVITT & WEISS  
ONE EMBARCADERO CENTER, 30TH FLOOR  
SAN FRANCISCO, CA 94111

EDWARD W. O'NEILL  
ATTORNEY AT LAW  
DAVIS WRIGHT TREMAINE, LLP  
505 MONTGOMERY STREET, SUITE 800  
SAN FRANCISCO, CA 94111-6533

DAN L. CARROLL  
ATTORNEY AT LAW  
DOWNEY BRAND LLP  
555 CAPITOL MALL, 10TH FLOOR  
SACRAMENTO, CA 95814

# Information Only

JOE GEEVER  
SOUTHERN CALIFORNIA MANAGER  
SURFRIDER FOUNDATION  
8117 W. MANCHESTER AVE 297  
PLAYA DEL REY, CA 90293

PAUL G. TOWNSLEY  
CALIFORNIA-AMERICAN WATER COMPANY  
303 H STREET , SUITE 250  
CHULA VISTA, CA 91910

FRANCES M. FARINA  
ATTORNEY AT LAW  
DE LAY & LAREDO  
389 PRINCETON AVENUE  
SANTA BARBARA, CA 93111

LLOYD W. LOWREY, JR.  
ATTORNEY AT LAW  
NOLAND, HAMERLY, ETIENNE & HOSS  
PO BOX 2510 (333 SALINAS STREET)  
SALINAS, CA 93902

SARAH HARDGRAVE  
ASSOCIATE  
RBF CONSULTING  
3180N IMJIN ROAD, SUITE 110  
MARINA, CA 93933

SEAN FLAVIN  
500 CAMINO EL ESTERO, STE 200  
MONTEREY, CA 93940

STEVE LEONARD  
CALIFORNIA AMERICAN WATER  
50 RAGSDALE DRIVE  
MONTEREY, CA 93940

VIRGINIA HENNESSEY  
MONTEREY COUNTY HERALD  
PO BOX 271  
MONTEREY, CA 93942

ANDREW M. BELL  
DISTRICT ENGINEER  
MONTEREY PENINSULA WATER MANAGEMENT DIST  
PO BOX 85  
MONTEREY, CA 93942-0085

HEATHER ALLEN  
FRIENDS OF THE SEA OTTER  
125 OCEAN VIEW BLVD., SUITE 204  
PACIFIC GROVE, CA 93950

JOHN W. FISCHER  
230 GROVE ACRE, ROOM 313  
PACIFIC GROVE, CA 93950-2342

TANYA A. GULESSERIAN  
ADAMS BROADWELL JOSEPH & GARDOZO  
601 GATEWAY BLVD. STE 1000  
SOUTH SAN FRANCISCO, CA 94080

ERIC ZIGAS  
ENVIRONMENTAL SCIENCE ASSOCIATES/WATER  
225 BUSH STREET  
SAN FRANCISCO, CA 94104

LENARD G. WEISS  
ATTORNEY AT LAW  
STEEFEL, LEVITT & WEISS, P.C.  
ONE EMBARCADERO CENTER, 30TH FLOOR  
SAN FRANCISCO, CA 94111

SARAH LEEPER  
ATTORNEY AT LAW  
STEEFEL, LEVITT & WEISS  
ONE EMBARCADERO CENTER, 30TH FLOOR  
SAN FRANCISCO, CA 94111

CHRIS HILEN  
DAVIS WRIGHT TERMAINE LLP  
505 MONTGOMERY STREET, SUITE 800  
SAN FRANCISCO, CA 94111-6533

JESSICA P. NAGTALON  
STATEWIDE DESAL RESPONSE GROUP  
2363 JACKSON ST, 3  
SAN FRANCISCO, CA 94115

JODY S. LONDON  
JODY LONDON CONSULTING  
PO BOX 3629  
OAKLAND, CA 94609

HEATHER COOLEY  
654 13TH ST.  
OAKLAND, CA 94612

ALAN B. LILLY  
ATTORNEY AT LAW  
BARTKIEWICZ, KRONICK & SHANAHAN  
1011 22ND STREET, SUITE 100  
SACRAMENTO, CA 95816-4907

DAVID P. STEPHENSON  
CALIFORNIA AMERICAN WATER  
4701 BELOIT DRIVE  
SACRAMENTO, CA 95838

## State Service

BERTRAM D. PATRICK  
CALIF PUBLIC UTILITIES COMMISSION  
DIVISION OF ADMINISTRATIVE LAW JUDGES  
ROOM 5110  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214

DIANA BROOKS  
CALIF PUBLIC UTILITIES COMMISSION  
WATER BRANCH  
ROOM 4102  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214

FRED L. CURRY  
CALIF PUBLIC UTILITIES COMMISSION  
WATER ADVISORY BRANCH  
ROOM 3106  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214

JONATHAN J. REIGER  
CALIF PUBLIC UTILITIES COMMISSION  
LEGAL DIVISION  
ROOM 5035  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214

MICHELLE COOKE  
CALIF PUBLIC UTILITIES COMMISSION

DIVISION OF ADMINISTRATIVE LAW JUDGES  
ROOM 5108  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214